

Notice of Allowability

Application No.

10/714,830

Examiner

Gay Ann Spahn

Applicant(s)

LAYFIELD, DEREK J.

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to a Response to Election of Species Requirement filed on 26 August 2005.
2. ☒ The allowed claim(s) is/are 1-12.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 06 February 2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

Election/Restrictions

Applicant's election without traverse of the species of wall construction shown in Figs. 2a-d, the species of Z-channel members being made of iron containing alloys, and the species of fasteners being screws/lag screws in the reply filed on 26 August 2005 is acknowledged.

Claims 14-39 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 06 February 2004 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Patent Agent Robert Brown on November 8, 2005.

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The application has been amended as follows:

IN THE DRAWINGS:

The following changes to the drawings have been approved by the examiner and agreed upon by applicant:

(1) Figures 1a, 1b, 1c, 1d, 1e, 1f, 1g, and 1h should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). The examiner notes that the words "PRIOR ART" are at the top of drawing sheets 1/14, 2/14, and 3/14. However, the --PRIOR ART-- label should be deleted from the top of each of drawing sheets 1/14, 2/14, and 3/14 and should be inserted underneath each of Fig. 1a", "Fig. 1b", "Fig. 1c", "Fig. 1d", "Fig. 1e", "Fig. 1f", "Fig. 1g", and "Fig. 1h".

In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

IN THE SPECIFICATION:

The following changes to the specification have been approved by the examiner and agreed upon by applicant:

- (1) page 5, line 17, after the word "board", insert --401--;
- (2) page 7, line 10, after the word "construction", insert --800--.

Appropriate correction is required.

IN THE CLAIMS:

The following changes to the claims have been approved by the examiner and agreed upon by applicant:

- (1) claim 1, line 2, change "compressedstraw" to --compressed straw--;
- (2) claim 1, line 3, delete the second occurrence of the word "a";
- (3) claim 1, line 4, change "side" to --sides--;
- (4) claim 1, line 6, delete "a" and change "edge" to --edges--;
- (5) claim 1, line 7, change "edge" to --edges being--;
- (6) claim 1, line 8, delete "suitable for" and after "edge", insert --of said--;
- (7) claim 1, line 9, after "side", insert --of said--;
- (8) claim 1, line 11, delete "an" and change "face" to --faces--;
- (9) claim 1, line 12, after "of", insert --said--;
- (10) claim 1, line 14, delete "suitable for";
- (11) claim 1, line 15, change "side" to --edge-- and after "of ", insert --said--;
- (12) claim 1, line 18, delete "a", change the first occurrence of "flange" to --flanges--, and delete the second occurrence of "and second";
- (13) claim 1, line 19, delete "coplanar" and insert --contained in a first plane which is parallel to a second plane containing said second flange--;
- (14) claim 1, line 20, delete "suitable for" and after "of" insert --said--;
- (15) claim 1, line 21, after "of" insert --said--;
- (16) claim 1, line 23, delete "an" and change "face" to --faces--;
- (17) claim 1, line 24, after "of" insert --said--;

- (18) claim 1, line 26, delete "suitable for";
- (19) claim 1, line 27, after "of" insert --said--;
- (20) claim 1, line 29, after both the first and second occurrences of "of" insert --said--;
- (21) claim 1, line 31, after "of" insert --said--;
- (22) claim 2, line 3, delete "a";
- (23) claim 2, line 4, change "edge" to --edges--;
- (24) claim 2, line 5, change "a" to --said-- and change "member, said first flange member" to --of each of said z-channel members--;
- (25) claim 2, line 6, delete "an" and change "edge" to --edges--;
- (26) claim 2, line 7, delete the second occurrence of "member";
- (27) claim 2, line 9, change "a" to --said-- and change "member, said second flange member" to --of each of said z-channel members--;
- (28) claim 2, line 10, delete "an" and change "edge" to --edges--;
- (29) claim 2, line 11, delete "member";
- (30) claim 2, line 12, after "member", insert --so--;
- (31) claim 2, lines 13-14, delete ", said second flange further oriented to be coplanar with said first flange member";
- (32) claim 3, line 2, after "and", insert --a--;
- (33) claim 4, line 2, after "group", insert --consisting--;
- (34) claim 5, line 2, after both the first and second occurrences of "of", insert --said--;

(35) claim 6, line 2, after both the first and second occurrences of "of", insert --said--;

(36) claim 8, line 3, after the first occurrence of "of", insert --said--;

(37) claim 8, line 4, after the second occurrence of "of", insert --said--;

(38) claim 8, line 5, after "of", insert --said--;

(39) claim 10, line 3, after the first occurrence of "of", insert --said--;

(40) claim 10, line 4, after both the first and second occurrences of "of", insert --said--;

(41) claim 11, line 2, change "comprise" to --are selected from the group consisting of--;

(42) claim 11, line 4, change "or" to --and--;

(43) claim 12, line 2, change "comprise" to --are selected from the group consisting of--;

(44) claim 12, line 4, change "or" to --and--; and

(45) cancel claims 13-39.

The following is an examiner's statement of reasons for allowance:

the prior art of record fails to teach or suggest, as is specifically recited in independent claim 1 and its dependent claims (i.e., claims 2-12), a wall construction including the combination of:

a compressed straw panel having first and second sides;

a plurality of resilient rail members, wherein each of said rail members has first and second edges suitable for flat contact with a planar surface;

first fastener means for attaching said first edge of said rail members to said first side straw panel;

a first gypsum board sheet having inside and outside faces and being oriented adjacent and planar to said first side of straw panel so to create a uniform first air space therebetween;

first penetrating fastener means attaching said first gypsum board sheet to said second side of said rail members;

a plurality of resilient z-channel members, wherein each of said z-channel members has first and second flanges;

second fastener means attaching said first flange of said z-channel members to said second side of straw panel;

a second gypsum board sheet having inside and outside faces and being oriented adjacent and planar to said second side of straw panel and spaced so as to create a uniform second air space therebetween;

second penetrating fastener means attaching said second gypsum board sheet to said second flange of z-channel members; and

insulating material positioned between said second side of straw panel and said inside face of second gypsum board sheet and sized to substantially and uniformly cover said second side of straw panel and partially fill said second air space.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wall panels including combinations of gypsum, insulation and air spaces (an perhaps z-channel and rail members) are disclosed in: U.S. Patent Application Publication No. 2004/0103610 and U.S. Patent No. 6,901,713 both to Axsom; U.S. Patent Application Publication No. 2004/0068948 to Wrass; U.S. Patent Application Publication Nos. 2004/0000113 and 2003/0061777 and U.S. Patent No. 6,557,313 all to Alderman; U.S. Patent No. 5,907,932 to LeConte et al.; U.S. Patent No. 4,603,527 to Vercelletto; U.S. Patent No. 6,401,417 to Leblang; U.S. Patent Application Publication No. 2004/0221518 to Westra; U.S. Patent No. 5,092,100; U.S. Patent No. 4,435,936 to Rutowski; U.S. Patent No. 4,047,355 to Knorr; U.S. Patent No. 6,745,531 to Egan; U.S. Patent No. 6,209,282 to Lafrance; U.S. Patent No. 6,185,895 to Rettew; U.S. Patent No. 5,502,931 to Munir; U.S. Patent No. 4,658,552 to Mulford; U.S. Patent Nos. 4,068,434 and 4,147,004 to Day et al.; U.S. Patent No. 4,161,087 to Levesque; U.S. Patent No. 6,240,704 to Porter; U.S. Patent Application Publication No. 2005/0188649 to Hagen,

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Jr.; U.S. Patent No. 2005/0066618 to Tucker; U.S. Patent No. 5,953,883 to Ojala; U.S. Patent No. 5,761,864 to Nonoshita; and U.S. Patent No. 3,447,275 to Vaughan et al.

Compressed straw for use in building wall panels are disclosed in: U.S. Patent Application Publication Nos. 2005/0210798 and 2005/0102969 to Burg et al.; U.S. Patent Application Publication No. 2005/0223671 to Korman et al.; U.S. Patent Application Publication No. 2003/0205010 and U.S. Patent No. 6,761,004 to Anglin et al.; U.S. Patent No. 6,061,986 to Canada; U.S. Patent No. 6,789,977 and U.S. Patent No. 6,634,077 both to Layfield; U.S. Patent Application Publication No. 2002/0162298 to Churchill et al.; U.S. Patent No. U.S. Patent Nos. 4,879,850 and 4,748,777 both to Galssco et al.; U.S. Patent No. 5,937,588 to Gard; U.S. Patent No. 5,398,472 to Eichelkraut; U.S. Patent No. 3,678,640 to Tillie; and U.S. Patent No. 3,423,892 to Rimington.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gay Ann Spahn whose telephone number is (571)-272-7731. The examiner can normally be reached on Monday through Thursday, 8:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (571)-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

^{GAS}
Gay Ann Spahn, Patent Examiner
November 8, 2005



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